

CCRB INVESTIGATIVE RECOMMENDATION

| | | | | | |
|---|-------------------------------------|---------------------------|---|------------------------------------|---------------------------------|
| Investigator: Michael Miskovski | Team: Squad #3 | CCRB Case #: 201909061 | <input checked="" type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Wednesday, 10/16/2019 7:49 AM | Location of Incident: § 87(2)(b) | Precinct: 105 | 18 Mo. SOL 4/16/2021 | EO SOL 12/1/2021 | |
| Date/Time CV Reported Wed, 10/16/2019 3:28 PM | CV Reported At: CCRB | How CV Reported: Phone | Date/Time Received at CCRB Wed, 10/16/2019 3:28 PM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------------|--------------|
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |
| § 87(2)(b) | § 87(2)(b) | § 87(2)(b) |

| Subject Officer(s) | Shield | TaxID | Command |
|----------------------|--------|--------|---------|
| 1. POM Bekim Molic | 06692 | 956106 | WARRSEC |
| 2. LT Dominick Nasso | 00000 | 924241 | WARRSEC |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|-----------------------------|-----------|--------|----------|
| 1. SGT Anthony Gonzalez | 01564 | 934943 | WARRSEC |
| 2. DT3 Jason Sanchezescobar | 4432 | 947452 | WARRSEC |
| 3. DT3 Jovaniel Cordova | 5870 | 946459 | WARRSEC |
| 4. DT3 Patrick Dooley | 2129 | 944518 | WARRSEC |

| Officer(s) | Allegation | Investigator Recommendation |
|---------------------|---|-----------------------------|
| A.POM Bekim Molic | Force: Police Officer Bekim Molic used physical force against § 87(2)(b) | § 87(2)(b) |
| B.POM Bekim Molic | Abuse: Police Officer Bekim Molic entered § 87(2)(b) in Queens. | § 87(2)(b) |
| C.LT Dominick Nasso | Abuse: Lieutenant Dominick Nasso entered § 87(2)(b) in Queens. | § 87(2)(b) |
| D.POM Bekim Molic | Abuse: Police Officer Bekim Molic refused to show the parole warrant to § 87(2)(b) § 87(2)(b) | § 87(2)(b) |
| E.LT Dominick Nasso | Abuse: Lieutenant Dominick Nasso damaged § 87(2)(b) § 87(2)(b)'s property. | § 87(2)(b) |

Case Summary

On October 16, 2019, reporting non-witness § 87(2)(b) filed this complaint with the CCRB over the phone on behalf of his hearing and speech impaired brother, § 87(2)(b) and his cousin, § 87(2)(b) § 87(2)(b).

On October 16, 2019, at approximately 7:40 a.m., Lieutenant Dominick Nasso, Sergeant Anthony Gonzalez, Police Officer Bekim Molic, Detective Jovaniel Cordova, Detective Patrick Dooley, and Detective Jason Sanchez Escobar, all of the Warrant Section Brooklyn arrived at § 87(2)(b) § 87(2)(b) in Queens, a two story private house with a basement, to look for § 87(2)(b) § 87(2)(b) for whom they possessed parole warrant # § 87(2)(g) § 87(2)(b) who is hearing and speech impaired, answered the door and attempted to communicate with the officers. The officers explained in writing and hand signals to § 87(2)(b) the reason for their appearance at the location. PO Molic then allegedly pushed § 87(2)(b) out of the doorway to allow for the officers to enter the location (**Allegation A: Force**, § 87(2)(g)). Led by investigating officer, PO Molic, and supervised by Lt. Nasso the officers then entered the house (**Allegations B and C: Abuse of Authority**, § 87(2)(g)). While inside, the officers went first to the basement, where they encountered § 87(2)(b) § 87(2)(b) who was sleeping. The officers woke § 87(2)(b) § 87(2)(b) § 87(2)(b) requested to see the warrant from PO Molic, but PO Molic did not provide it (**Allegation D: Abuse of Authority**, § 87(2)(g)). The officers then escorted him to the living room on the first floor with § 87(2)(b). The officers questioned § 87(2)(b) § 87(2)(b) about the location of § 87(2)(b) § 87(2)(b) and explained that they would have to check the rest of the residence. Lt. Nasso led the officers, except for Sgt. Gonzalez who stayed in the living room with § 87(2)(b) § 87(2)(b) and § 87(2)(b) upstairs where there were two bedrooms and an attic, all with locked and closed doors. An officer allegedly asked § 87(2)(b) § 87(2)(b) for the keys to the doors, but § 87(2)(b) § 87(2)(b) stated that he did not know of any keys. The officer then explained that the doors would have to be forced open. Lt. Nasso oversaw the officers force open the two bedroom doors and removed the attic door off the hinges (**Allegation E: Abuse of Authority**, § 87(2)(g)). The officers did not find § 87(2)(b) § 87(2)(b) told the § 87(2)(b) and § 87(2)(b) § 87(2)(b) to call them if they had any information on the location of § 87(2)(b) § 87(2)(b) for a reward, and PO Molic provided § 87(2)(b) § 87(2)(b) with his business card. The officers then left the location. No summonses were issued nor were any arrests made.

§ 87(2)(b) and § 87(2)(b) were uncooperative in providing statements to the CCRB (**01 Board Review**). § 87(2)(b) refused to provide surveillance footage of the incident to the investigation (**01 Board Review**). There is no body-worn camera footage in this case because Warrant Section officers are not assigned cameras (**02 Board Review**).

Findings and Recommendations

Allegation (A) Force: Police Officer Bekim Molic used physical force against § 87(2)(b)
Allegation (B) Abuse of Authority: Police Officer Bekim Molic entered § 87(2)(b) § 87(2)(b) in Queens.
Allegation (C) Abuse of Authority: Lieutenant Dominick Nasso entered § 87(2)(b) § 87(2)(b) in Queens.

§ 87(2)(g)

It is undisputed that the officers entered § 87(2)(b) § 87(2)(b) Queens on October 16, 2019.

In his verified statement to the CCRB, § 87(2)(b) stated after the officers entered, § 87(2)(b) communicated to him through their shared hand signs that when the officers entered, PO Molic pushed § 87(2)(b) out of the way (**03 Board Review**). He stated that § 87(2)(b) communicated this to him through their shared hand signs while they sat at the table while officers walked through their house.

In the initial complaint, § 87(2)(b) stated that § 87(2)(b) communicated to him that officers pushed him as they entered (**05 Board Review**).

In his CCRB interview, PO Molic, the investigating officer, stated that he and his team arrived at the location because it was an address listed on one of § 87(2)(b)'s previous arrests from 2016 and that ten days prior he spoke with an ex-girlfriend who said that § 87(2)(b) was probably living with his family in Queens. PO Molic did not have any other knowledge that § 87(2)(b) would be at the location that day nor did he observe him at the location at any point prior to their arrival (**04 Board Review**). PO Molic stated that when § 87(2)(b) had first opened the door, the officer attempted to speak with him but soon realized that he was deaf because he pointing to his ears (**04 Board Review**). PO Molic could not remember who, but one of the officers wrote instructions that they were looking for § 87(2)(b) for violation of a parole warrant. PO Molic then showed § 87(2)(b) a picture of § 87(2)(b) and the parole warrant profile on the department cell phone. After being shown the profile for § 87(2)(b) § 87(2)(b) nodded and walked toward the living room. PO Molic believed that § 87(2)(b) consented that the officers could enter, so they did so. However, PO Molic believed that the Parole Warrant provided him the authority to enter even if consent was not provided (**04 Board Review**). PO Molic denied pushing § 87(2)(b) as he entered, further stating that § 87(2)(b) nodded to signal to the officers to come inside of the residence. PO Molic stated that they entered the residence without incident and that neither he nor any officer pushed § 87(2)(b).

Lt. Nasso stated to the CCRB that it was his job to ensure that all proper procedures were followed by his officers during the execution (**07 Board Review**). According to Lt. Nasso's statement to the CCRB, PO Molic informed him that the location was a family home that always appeared in § 87(2)(b)'s previous paperwork. Lt. Nasso knew that § 87(2)(b) had violated his parole. Lt. Nasso noted that the address was listed in a couple of previous arrests, and that the address was a rejected address from The Parole Board, (i.e. the Parole Board denied his request to live there). The Parole Board directed § 87(2)(b) to report to a shelter, but he never did so. Lt. Nasso was not informed of anything else. Lt. Nasso did not do any searches on October 16, 2019 to determine if § 87(2)(b) was currently at the residence. He did not know if PO Molic had done so either. Lt. Nasso stated that during the execution of the warrant, once § 87(2)(b) opened the door and the officers tried speaking with him, he continually pointed to his ears and when he tried to speak, the officers could not understand his words (**07 Board Review**). PO Molic showed § 87(2)(b) the warrant for § 87(2)(b) and § 87(2)(b) shook his head in affirmation. Lt. Nasso believed this was an affirmation that § 87(2)(b) knew § 87(2)(b) then held open the door and waved the officers inside of the house. Lt. Nasso did not observe PO Molic or any other officer push § 87(2)(b).

Warrant § 87(2)(b) for § 87(2)(b) lists his address as § 87(2)(b), Brooklyn, NY. In the section for previous arrests, it shows two arrests from 2018 and a third from 2016 listing his addresses as different locations. However, one arrest from 2016 and two arrests from 2010 list § 87(2)(b) in Queens as his address (**08 Board Review**). PO Molic's DD5 Investigative Report shows that on September 25, 2019, he conducted several searches: CRIMS for outstanding court dates, RTRD for previous larceny and burglary convictions, DAS search for active and previous I-Cards and Warrants, a DCJS search for his name, date of birth, social security number, FBI number and DNA sample, a RTCC search for his last 17 arrests, an Inmate Locator to see if he was still in custody, a BETA search, a PIMS search for § 87(2)(b)'s photograph, and a

TLO search for the address which yielded 3418 Avenue N, Apartment 2, in Brooklyn (08 Board Review). PO Molic's DD5 Investigative Report notes that on October 1, 2019, PO Molic visited § 87(2)(b) § 87(2)(b)'s ex-girlfriend at § 87(2)(b) § 87(2)(b), in Brooklyn, who stated that § 87(2)(b) § 87(2)(b) "has family out in Queens, but [she] was unsure of where he could be staying (08 Board Review). On October 7, 2019, PO Molic documented that he searched for § 87(2)(b) § 87(2)(b)'s previous AIDED reports and Accident Reports with negative results. He searched the DV system and found the most recent report on 11/03/2018 with address § 87(2)(b) § 87(2)(b) in Brooklyn. On October 14, 2019, PO Molic searched the DMV archives for § 87(2)(b) § 87(2)(b) with negative results. On October 16, 2019, PO Molic also documented § 87(2)(b) § 87(2)(b)'s consent at § 87(2)(b) § 87(2)(b) in his DD5. The entry for the actions taken at § 87(2)(b) § 87(2)(b), state, "I/O knocked on the door which was answered by § 87(2)(b) § 87(2)(b) is the subject's brother. I/O was invited inside the location. Search conducted with negative results," (08 Board Review).

Sgt. Gonzalez stated that when § 87(2)(b) § 87(2)(b) opened the door and had trouble communicating because he could not hear or speak, he himself wrote the explanation for why the officers were present on a piece of paper and explained that officers had to enter because they had a warrant and that they had the ability to do so because of the warrant (06 Board Review). Sgt. Gonzalez remembered that officers showed the warrant to § 87(2)(b) § 87(2)(b) but did not remember how they did so. According to Sgt. Gonzalez, § 87(2)(b) § 87(2)(b) then stepped back from the door, nodded his head, and waved his hand in a "come-in" motion. Sgt. Gonzalez did not observe PO Molic or any other officer push § 87(2)(b) § 87(2)(b) (06 Board Review).

§ 87(2)(g)

According to New York State Criminal Procedure Law (NY CPL) §530.70, a bench or parole warrant must be treated as an arrest warrant (17 Board Review). NY CPL §120.80 states, "In order to effect the arrest, the police officer may, under circumstances and in the manner prescribed in this subdivision, enter any premises in which he reasonably believes the defendant to be present; provided, however, that where the premises in which the officer reasonably believes the defendant to be present is the dwelling of a third party who is not the subject of the arrest warrant, the officer shall proceed in the manner specified in article 690 of this chapter, which explains how to apply and execute a search warrant (18 and 19 Board Review). *Payton v New York*, 445 US 573 [1980] outlines the circumstances for a warrantless entry into a premises, which would require hot pursuit, exigent circumstances, an emergency, or consent (22 Board Review).

In *People v. Abrams*, 95 A.D.2d 155 [1983], the court stated, "A court must determine whether, under the totality of the circumstances, defendant's consent to search was voluntarily given. The voluntariness of a consent depends on whether the consent was the product of an essentially free and unconstrained choice," (31 Board Review). Furthermore, consent was considered coercive "[w]here an officer falsely represents facts that normally establish the exercise of police authority to which a person would ordinarily yield, such as obtaining entry to a home by falsely stating that the investigation was based upon a nonexistent gas leak (*People v Jefferson*, 43 AD2d 112), by misrepresenting that a defendant's car had been in an accident (*People v Torres*, 45 AD2d 185), or by the false assertion that the officer had a search warrant (*Bumper v North Carolina*, 391 U.S. 543)." (31 Board Review).

NYPD Patrol Guide Procedure 202-09, "Commanding Officer" instructs commanding officers that they must ensure proper performance of the functions designated for the command and frequently test the knowledge of members of the command regarding their duties and responsibilities (33 Board Review).

§ 87(2)(g)

§ 87(2)(g)

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warrant to § 87(2)(b) § 87(2)(b)

█████ in the kitchen. By the end of the incident, PO Molic never showed █████ § 87(2)(b) █████ § 87(2)(b) the parole warrant but instead provided his business card (**03 Board Review**).

Lt. Nasso did not recall § 87(2)(b) § 87(2)(b) ever requesting to see the warrant (07 Board Review).

[REDACTED]

§ 87(2)(g)

Allegation (E): Abuse of Authority: Lieutenant Dominick Nasso damaged § 87(2)(b) s property.

It is undisputed that on the upper floor of § 87(2)(b) in Queens, officers forced open two bedroom doors and removed the hinges in an attic door that were locked when looking for § 87(2)(b).

§ 87(2)(b) Photographs of the doors provided by § 87(2)(b) via email to the investigation show damage to the doors around the locks and the frames, consistent with locked doors being forced open (**27-30 Board Review**).

§ 87(2)(b) stated that he and § 87(2)(b) sat in the kitchen on the ground floor of the house with Sgt. Gonzalez while the other officers went upstairs (**03 Board Review**). An officer came back downstairs and asked § 87(2)(b) for keys to the upstairs rooms. § 87(2)(b) refused, and the officer told him that they could open the doors anyways. After the officers left, he saw that officers broke two bedroom doors damaging their locks and they had taken the attic door off the hinges (**03 Board Review**).

PO Molic stated that when he and the other officers went upstairs, they saw three locked doors (**04 Board Review**). He went downstairs and asked § 87(2)(b) for the keys to the rooms. § 87(2)(b) told him that he did not know the location of the keys and told PO Molic, “Do what you got to do.” PO Molic did not believe that § 87(2)(b) was being sarcastic and understood this to be consent to breach the doors. PO Molic returned upstairs, and the officers kicked open two bedroom doors to reveal empty bedrooms. PO Molic did not remember any officer taking the attic door off the hinges. PO Molic also stated that he filed a city-involved form in case the § 87(2)(b) family requested reimbursement for the damage caused to the doors (**04 Board Review**).

Sgt. Gonzalez stayed downstairs with the § 87(2)(b) but remembered an officer coming downstairs and asking § 87(2)(b) if § 87(2)(b) could be in the locked rooms upstairs (**06 Board Review**). § 87(2)(b) told the officer, “It’s possible, I don’t know.” The officer asked § 87(2)(b) for the keys, but he did not have them. Sgt. Gonzalez recalled the sounds of doors being broken but did not remember how many times.

Lt. Nasso remembered that when they went upstairs they encountered two or three locked doors and that an officer went downstairs to ask § 87(2)(b) for keys (**07 Board Review**). § 87(2)(b) told the officers that he did not have keys but told them, “Do what you have to do.” Lt. Nasso then went to speak with § 87(2)(b) and told him that they would have to force the doors, and § 87(2)(b) repeated himself to tell the officers to do what they need to do. Lt. Nasso did not remember how the doors were forced open but remembered that it was two bedrooms and that they took the attic door off its hinges. Lt. Nasso instructed PO Molic to file a city-involved form for the damage to the doors (**07 Board Review**).

The investigation requested the city-involved form from the Department Advocate’s Office and the Warrant Section Command of the NYPD but both returned negative results (**10-11 Board Review**).

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) and § 87(2)(b) have been parties (**12, 13, 20 Board Review**).
- PO Molic has been a member of service for six years and has been a subject in three CCRB complaints and three allegations, none of which were substantiated. § 87(2)(g)
- Lt. Nasso has been a member of service for 21 years and has been a subject in 17 CCRB complaints and 45 allegations, of which one was substantiated:
 - CCRB 200301734 involved substantiated allegations of frisk and/or search. The Board recommended Charges and the NYPD imposed a loss of 10 vacation days.
 - § 87(2)(g)

Mediation, Civil and Criminal Histories

- This case was not suitable for mediation.
- A request for Notice of Claim was submitted to the NYC Comptroller's Office on November 13, 2020 and will be added to the case file upon receipt (**14 Board Review**).
- § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad No.: 3

Investigator: Michael Miskovski Inv. Michael Miskovski 05/06/2021
Signature Print Title & Name Date

Squad Leader: Olga Golub SL Olga Golub 05/06/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date